IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO.4373 OF 2004

Ali Akbar .. Applicant

Vs.

Nirbhay Holding Pvt. Ltd. & Ors. .. Respondents

Mr. Rajesh Desai for Applicant.
Mr. R.M. Tiwari for Respondent No. 1.
Shri U.V. Nikam, APP for State.
Hiranya Pandya i/b
S. Latiwala.

CORAM: S.K. SHAH, J.

DATE : 18th April, 2006.

P.C.

Heard counsels for both sides. By the present application applicant is seeking quashing and setting aside of the order passed by the learned Magistrate issuing the process against the applicant who earlier filed Criminal Application No. 3485 of 2002 challenging the order of issuance of the process passed by the Metropolitan Magistrate. By order dated 13/4/2004 this court has disposed of the criminal application observing that the Applicant should approach the Sessions Court for challenging the order passed by the Magistrate or file application for recalling of the process before the Magistrate. Present application is filed once again wherein it is mentioned that in view of the ratio of the Hon'ble Apex Court in Adalat Prasad's case, the order of issue of process cannot be recalled by the Magistrate and therefore the present application was filed for quashing the process. However the present application is filed without exercising option of going before the Sessions Court when it was specifically directed by this

court. In view of the order dated 13th April 2006 passed by this court the present application is not maintainable. Application is therefore dismissed.

(S. K. SHAH, J)